

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SYLVIA TOPP,	:	
	:	20 Civ. 10016 (LGS)
Plaintiff,	:	
	:	
-against-	:	<u>ORDER</u>
	:	
HARRY PINCUS, et al.,	:	
Defendants.	:	
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LORNA G. SCHOFIELD, District Judge:

WHEREAS, the parties filed cross-motions for judgment on the pleadings. Dkt. Nos. 39, 40, 41, 42, 43, 44, 45, 50, 51.

WHEREAS, on July 21, 2021, the Court issued an Order denying without prejudice the parties' cross-motions for judgment on the pleadings and Defendants' motion to stay. Dkt. No. 64.

WHEREAS, the parties filed pre-motion letters in anticipation of cross-motions for summary judgment. Dkt. Nos. 59, 60, 61, 62, and 63.

WHEREAS, a pre-motion conference was held on July 29, 2021. It is hereby

ORDERED that, the parties shall brief their cross-motions for summary judgment according to the following schedule:

- By **August 30, 2021**, the parties shall file their opening briefs, not to exceed fifteen (15) pages, and Plaintiff shall file a Rule 56.1 Statement.
- By **September 20, 2021**, the parties shall file their oppositions, not to exceed ten (10) pages, and Defendant shall file a response to Plaintiff's Rule 56.1 Statement.

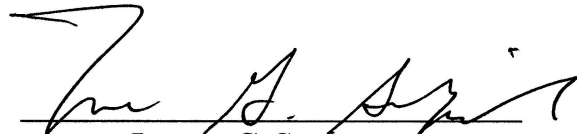
The parties' briefs shall supplement, and need not restate, the arguments that the parties made in connection with their cross-motions for judgment on the pleadings (Dkt. Nos. 39, 40, 41, 42, 43,

44, 45, 50, 51). The parties' briefing shall address whether partition can be made "without great prejudice to the owners." *See* N.Y. Real Prop. Actions L. § 901(1) (stating that "[a] person holding and in possession of real property as . . . tenant in common . . . may maintain an action for partition of the property, and for a sale if it appears that a partition cannot be made without great prejudice to the owners."). Each side is limited to five affidavits, four of which shall not exceed ten (10) double-spaced pages and one of which shall not exceed fifteen (15) double-spaced pages. Should the parties choose to submit depositions as supporting exhibits, they shall file excerpted depositions (which may be in minuscule format), complying with the Court's Individual Rules on page limits, and shall submit to Chambers a compact disc containing full versions of the deposition transcripts. The parties shall otherwise comply with the Court's Individual Rules. It is further

ORDERED that, based on the parties' discussion of *Pincus v. Tashikan*, Index No. 153050/2018 (Sup. Ct. N.Y. Co.), Defendants motion to stay this action is **DENIED with prejudice**, and the parties need not address this issue in connection with their cross-motions for summary judgment. *See N.Y. v. U.S. Dep't of Homeland Sec.*, 974 F. 3d 210, 214 (2d Cir. 220) (explaining that "a stay is an exercise of judicial discretion") (internal citation and quotation marks omitted).

The Clerk of Court is respectfully directed to close the motions at Dkt. No. 59.

Dated: July 29, 2021
New York, New York



LORNA G. SCHOFIELD
UNITED STATES DISTRICT JUDGE